IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.126 OF 2004

The State of Maharashtra ..Applicant

Vs.

Dr.Ramesh Dhokate ..Respondents

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Mr.M.S.Mhambray A.P.P. for Applicant-State
Mr.A.P.Mundergi Senior Counsel with
Mr.M.K.Kocharekar for Respondent

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 26/27,2005

P.C.

1. Heard the learned A.P.P. for the State and learned counsel for the respondent-original accused.

2. The State has preferred this application for cancellation of anticipatory bail granted to the respondent in C.R.No.306 of 2003 of Dombivali Police Station. Bail is being sought to be cancelled on merits as well as on the ground that respondent has tried to hamper the investigation

and had tampered with the witnesses. The respondent is facing prosecution under Sections 420, 467, 478, 471 of IPC and also under Sections 35 and 36 of the Maharashtra Medical Practitioners Act, 1961.

3. The learned Sessions Judge granted anticipatory bail to the applicant on the ground that his custody was not required. It appears that the learned Sessions Judge was erroneously influenced by the fact that the respondent has published various books and many awards were conferred on him and he had participated in many conferences. As far as the aspect of publication of books is concerned, the extract from one of the books i.e. "Cancervaril Sanjivani" written by the respondent and published on 4.12.1993 has been produced wherein the respondent claims that he has cured 60 female patients of "cancer of prostrate". It is well known fact that female species do not have any organ like ‘prostrate’. This itself shows the false nature of claim made by the respondent in these books. As far as many awards and conferences are concerned, it is seen that in his book

"Cancervaril Sanjivani 4th Edt." published on 14.1.1998, the respondent has placed reliance on the Certificate issued to him by All India Institute of the Standard of Research Drugs (AIIR SRD) New Delhi. The said certificate is published in this book. In the said certificate, it is stated that extract of Rangvila Herb searched by Vaidya Ramesh Dhokate (respondent) is found to have anti-cancer properties. The claim of the respondent was that this particular drug i.e. ‘Rangvila Herb" was used by him to cure cancer patients. The learned A.P.P. has produced letter dated 15.3.2004 issued from the Government of India Central Drugs Standard Control Organisation wherein it is stated that no such Institute exists. It is seen that respondent is making use of false claims and false certificates to support his claim that he is able to cure cancer patients with ‘herbs’. From the facts as above, it is obvious that the claims of the respondent are quite erroneous and false to his knowledge and the certificates on which reliance is placed, are forged. The learned Sessions Judge appears to have been highly impressed by these very books. As stated earlier,

the claims in this book are totally false, so also the certificates published in these books are forged.

4. Besides the above facts, the prosecution has pointed out order of this Court dated 29.4.2004 passed during the pendency of this application by which the respondent was directed to report to Thane Crime Branch (EOW) between 11.00 a.m. to 2.00 p.m. from 30.4.2004 for a period of twenty days. This order was passed as the Investigating Agency had not got adequate opportunity to investigate the crime and hence, with a view to grant the Investigating Agency a fair and adequate opportunity to investigate the crime, this order was passed. However, the respondent appeared only for 13 days and thereafter he has not attended the Police Station. Thereafter the Respondent simply vanished without informing the investigating agency. Thus, it is seen that petitioner has flouted the orders of this Court dated 29.4.2004.

5. The learned counsel for the respondent has submitted that the petitioner was unwell. He was

required to be operated and on account of this, he was unable to attend the Police Station for remaining period of seven days. Reliance is placed on certain letters which were given to the Police Inspector of (EOW), Thane Crime wherein it is stated that from 29.4.2004 respondent is required to go out on account of his personal and household reasons. On 5.5.2004 he was required to appear before the Maharashtra Medical Council in respect of enquiry and from 6.5.2004 to 10.5.2004, he was required to undergo test in relation to operation. However, it is seen that none of these letters, have been given to the concerned Police Station or Crime Branch (EOW), Thane after the order dated 29.4.2004 was passed by this Court. So also when the order dated 29.4.2004 was passed by this Court, all these facts were not brought to the notice of the Court and in fact, it was agreed that the respondent would attend the Crime Branch (EOW) Thane for a period of twenty days from 30.4.2004. From 30.4.2004, it is seen that respondent had attended for 13 days. When the respondent was not to attend or could not attend Crime Branch (EOW) Thane from 14.5.2004 he ought to have informed the

Investigating Officer or concerned officer of the Crime Branch (EOW) Thane that from the next day onwards, he would not be attending and he ought to have stated reasons for not so attending. However, no such step was taken by the respondent and from 14th day onwards, the respondent remained absent. No intimation in respect of his absence was given by the respondent on the 13th day or any day prior thereto, after the order was passed by this Court directing him to attend for twenty days. In fact no such intimation was given at any point to the investigating agency after the order dated 29.4.2004 was passed by this Court.

6. On behalf of respondent, it is submitted that he was to be operated and prior to the operation, he was required to undergo some tests and it is on account of this that, he could not attend the police station for the remaining seven days. The respondent had been directed to appear for twenty days from 30.4.2004. The said period would come to an end on or about 20.5.2004. The respondent has placed reliance on some papers which show that he was operated on 14.6.2004 at Breach Candy Hospital.

Reliance was also placed on some tests which were conducted on him by Dr.C.B.Bhatt. A copy of the result relating to the said test is annexed to the affidavit of respondent at page no.176. The learned A.P.P. on the other hand, has submitted that the said report is a forged report. They have made enquiries with Dr.C.B.Bhatt and Dr.C.B.Bhatt has stated that said test was conducted in respect of one Mr.Veljibhai Shah and it was done at Sir Harkishandas Hospital. Dr.Bhatt had stated that the copy of the test result appeared to be forged one. Thus, even assuming that the Respondent was operated on 14.6.2004, there does not appear anything concrete or reliable to show that he could not attend from 14th May to 20th May, 2004.

7. On behalf of respondent, it is submitted that during the said period of seven days that he was required to attend the EOW, he was required to undergo test. As stated earlier, some of the reports on which reliance is placed clearly appear to be forged. Thus, I find no merit in the submissions made on behalf of respondent.

8. The second ground on which cancellation of anticipatory bail is sought, is that the respondent is causing hurdles in the investigation. In support of this contention, reliance is placed on one letter dated 13.4.2004 written by the respondent to witness Dwarkadas Kondiba Prabhale. In the said letter, the respondent has informed witness Dwarkadas Prabhale that he should give statement to the police as per the statement annexed by the respondent to the said letter. Ms.Bharti Narvekar, the Personal Assistant of the respondent has stated in her statement that she had written letter dated 13.4.2004 to Dwarkadas Prabhale which was signed by the respondent. She had also written the statement of Dwarkadas Prabhale which was annexed by the respondent to his covering letter dated 13.4.2004. So also witness Dwarkadas has given statement wherein he has stated that he had received letter from the respondent dated 13.4.2004 wherein it was stated that he should give statement as per the statement annexed to the said letter. Dwarkadas Prabhale has further stated that respondent had telephoned him and told him that he should not go to the police till

10.6.2004 and he should avoid to do the same. This witness has further stated that the respondent had offered him and his partner Vinod Shah Rs.50,000/- so that they should give false statement to the police. However, this witness refused to do so. From all these above facts, it is clearly seen that the respondent is trying to hamper the investigation and is creating hurdles in the investigation. If the respondent is allowed to remain out, he will create hurdles in the investigation of this case and hence, in my view, it would be necessary to cancel anticipatory bail granted to the respondent. So also, it is seen that there is clear breach of the conditions by the respondent whereby he was directed to attend Crime Branch (EOW), Thane for a period of twenty days.

9. Generally speaking some of the main grounds for cancellation of bail is creating hurdles in the investigation of the case or tampering or attempting to tamper with the witnesses or abuse of the concession or abuse of any condition imposed on an accused. In the present case, the respondent has clearly flouted the directions of this Court.

So also, it is clear that he has created hurdles in the investigation of the case, hence, in my view, it is a fit case to cancel the anticipatory bail granted to the applicant. Moreover, it is seen that anticipatory bail was granted to the respondent by the learned Sessions Judge on the basis of irrelevant facts and after taking erroneous material into consideration. Hence, on this ground also, the anticipatory bail granted to the applicant deserves to be cancelled.

10. In the result, application is allowed.

11. At this stage, the learned advocate for the respondent prays that the respondent may be granted four weeks time to surrender as the respondent wishes to challenge this order before the Supreme Court. The learned A.P.P. states that at the most two weeks time may be granted to the respondent to surrender. In view of the above statements, I am inclined to grant three weeks time to the respondent to surrender. Thus, the respondent is granted three weeks time from today to surrender.

[V.K.TAHILRAMANI,J.]